

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:	ADMINISTRATIVE CONSENT ORDER
Royal Oaks Development Corporation and AJ Spiegel Dubuque County, Iowa	NO. 2014-SW-03

TO: Royal Oaks Development Corporation  
AJ Spiegel, Registered Agent  
8650 Enterprise Drive  
Peosta, Iowa 52068

AJ Spiegel  
8650 Enterprise Drive  
Peosta, Iowa 52068

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Royal Oaks Development Corporation and AJ Spiegel for the purpose of resolving violations pertaining to illegal open burning and illegal open dumping. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Brian Jergenson  
Iowa Department of Natural Resources  
Field Office No. 1  
909 West Main, Suite 4  
Manchester, Iowa 52057  
Phone: 563-927-2075

**Relating to legal requirements:**

Anne Preziosi, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515-725-9551

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

This administrative consent order is issued pursuant to the provisions of Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted pursuant

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IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Royal Oaks Development Corporation and AJ Spiegel

to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. On November 18, 2013, DNR Field Office 1 received an anonymous complaint of improper disposal of a demolished building in Peosta, Dubuque County, Iowa. The complainant stated that demolition debris was being removed from one location on Peosta Street in Peosta to another location on Peosta Street, where the demolition debris would be disposed of by burning.

2. On November 20, 2013, Brian Jergenson and Brett Meyers of DNR Field Office 1 investigated the complaint. During the investigation it was observed that demolition debris, including asphalt shingles, plywood, scrap metal, and general wood waste from one or more demolished buildings had been deposited on a property located at 906 Peosta Street, Peosta (the site). Tree trimmings had been dumped at the site as well. The materials observed at the site did not appear to have originated on the site.

3. The site is owned by Royal Oaks Development Corporation, which is a property development company. AJ Spiegel is the owner and Registered Agent of Royal Oaks Development Corporation.

4. Also on November 20, 2013, Mr. Jergenson contacted Brad Brown, construction manager for Royal Oaks Development Corporation. Mr. Jergenson discussed with Mr. Brown the complaint, the solid waste pile located at the site, and possible violations regarding solid waste disposal. Mr. Brown asked Mr. Jergenson if the solid waste material located at the site could be burned. Mr. Jergenson responded that it could not be burned, but must be disposed of by recycling or by disposal at a permitted solid waste disposal facility. Mr. Jergenson also informed Mr. Brown that only material classified as rubble could be utilized for fill at the site. Mr. Brown stated that he would discuss the requirements with his boss, AJ Spiegel.

5. On November 21, 2013, Mr. Jergenson spoke with AJ Spiegel regarding the complaint, the site visit, and the discussion with Royal Oaks Development Corporation Construction Manager Brad Brown. Mr. Spiegel stated that the waste materials deposited at the site were from a barn, a shed and a house that originally had been located at 354 Peosta Street, Peosta, and that had been demolished. Mr. Spiegel further stated that he planned to burn the relocated demolition debris. This property is owned by Spiegel Family Realty Company, LLC, which is another business owned by AJ Spiegel.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Royal Oaks Development Corporation and AJ Spiegel

6. Mr. Jergenson told Mr. Spiegel that burning of the materials was prohibited. Mr. Jergenson also told Mr. Spiegel that DNR would issue a Notice of Violation for improper disposal of solid waste. When Mr. Jergenson told Mr. Spiegel that the waste materials at the site could not be burned, and that they must be taken to a permitted solid waste facility, Mr. Spiegel expressed concern that proper disposal would be expensive. However, Mr. Spiegel agreed to dispose of the materials properly by December 15, 2013, and to provide receipts from a permitted disposal facility.

7. Mr. Jergenson returned to the site on December 26, 2013, to determine whether cleanup had occurred at the site and to acquire landfill receipts. At the site, Mr. Jergenson met with Mike Weurtzer who is an employee of Mr. Spiegel. Mr. Jergenson observed that the solid waste materials had been removed from the site, and Mr. Weurtzer provided receipts.

8. Mr. Spiegel has been made aware of DNR's regulations in the past. On December 21, 2009, a Notice of Violation was issued to Royal Oaks Development Corporation for open dumping of a demolished building in Bellevue, Iowa. The December 21, 2009, Notice of Violation letter was sent to the attention of AJ Spiegel. On September 5, 2007, a Notice of Violation was issued to Royal Oaks Development Corporation for storm water violations. The September 5, 2007, Notice of Violation letter also was sent to the attention of AJ Spiegel. On October 10, 2006, a Notice of Violation was issued to AJ Spiegel for failure to inspect a demolished building for asbestos and for storm water violations. And on June 20, 1997, a Notice of Violation was issued to Royal Oak Services for open dumping and open burning of a demolished building in Peosta. The June 20, 1997, Notice of Violation letter was sent to the attention of AJ Spiegel.

9. Despite the previous written notices from DNR regarding the prohibitions against open dumping and open burning, on November 21, 2013, Mr. Spiegel proceeded with the illegal open dumping of demolition debris with the intent to burn the debris. Mr. Spiegel also told Mr. Jergenson that he was not aware of any past violations. However, after being reminded, Mr. Spiegel stated that he recalled the December 2009 Notice of Violation.

#### IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.304 provides that the Commission shall establish rules governing the handling and disposal of solid waste. The Commission has adopted 567 IAC chapters 100-123.

2. Iowa Code section 455B.103 and 567 IAC 100.4 prohibit a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Royal Oaks Development Corporation and AJ Spiegel

Director. The illegal open dumping of solid waste in this case demonstrates non-compliance with this provision. AJ Spiegel directed the removal of demolition debris from 354 Peosta Street to 906 Peosta Street in Peosta, with the intention to burn the waste materials.

**V. ORDER**

THEREFORE, DNR orders and Royal Oaks Development Corporation and AJ Spiegel agree to the following:

1. Royal Oaks Development Corporation and AJ Spiegel shall pay a penalty of \$8,000.00 within 30 days of the date this order is signed by the Director, and
2. Royal Oaks Development Corporation shall cease all illegal solid waste disposal activity at any location in the State of Iowa, and shall comply in the future with the regulations concerning disposal of solid waste.

**VI. PENALTY**

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$8,000.00 is assessed by this administrative consent order. The penalty must be paid within 30 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

Iowa Code section 455B.307(3) authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the solid waste disposal violations involved in this matter.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Royal Oaks Development Corporation and AJ Spiegel saved time and money by delaying transportation and landfill disposal fees. However, cleanup did occur and receipts were provided to DNR. Therefore, it is difficult to estimate the amount of economic benefit realized in this case, but it is estimated that at least \$1,000.00 in economic benefit occurred by delaying proper disposal. Therefore, \$1,000.00 is assessed for this factor.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Royal Oaks Development Corporation and AJ Spiegel

Gravity of the Violation – The open burning of demolition waste can release toxins that pollute the air, may pollute groundwater, and pose a risk to human health and the environment. Further, illegal open dumping threatens the integrity of DNR's environmental programs and efforts to protect the State of Iowa's valuable natural resources. In this case, DNR has spent considerable time and effort since 1997 detecting, documenting, and responding to violations associated with AJ Spiegel's activities. Therefore, \$3,000.00 is assessed for the gravity of the violations.

Culpability – Royal Oaks Development Corporation and AJ Spiegel have intentionally open dumped solid waste materials. Further, Mr. Spiegel admitted to DNR that he intended to illegally open burn the demolition debris that was open dumped in this case. Finally, Mr. Spiegel has been made aware of DNR's regulations, included the prohibitions against illegal open dumping, on numerous occasions in the past over a period of years. For the above reasons \$3,000.00 is assessed for culpability.

Aggravating Factors - In certain cases, DNR assesses a portion of the penalty based on aggravating factors. Mr. Spiegel illegally dumped demolition debris transported from the demolition site owned by Spiegel Family Realty Company, LLC, to the site owned by Royal Oaks Development Corporation. Further, Mr. Spiegel stated an intention to illegally open burn the demolition debris. This statement was made after having been informed by DNR in writing on two occasions in the past of the prohibition against open dumping and on one occasion in the past of the prohibition against open burning. Mr. Spiegel also has been made aware of other DNR rules that affect the conduct of his business. However, Mr. Spiegel denied knowledge of past Notices of Violation, and expressed concern regarding the monetary costs of compliance. Mr. Spiegel has a responsibility to properly dispose of demolition waste materials, to be knowledgeable of the DNR's requirements, and to be alert to the probability that his conduct is subject to DNR's rules. Due to this combination of facts, the amount of \$1,000.00 is assessed for aggravating circumstances.

## VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Royal Oaks Development Corporation and AJ Spiegel. For that reason, Royal Oaks Development Corporation and AJ Spiegel waive their right to appeal this order or any part thereof.

## VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Royal Oaks Development Corporation and AJ Spiegel

penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.307. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

Chuck Gipp  
Chuck Gipp, Director  
Iowa Department of Natural Resources

Dated this 24 day of  
March, 2014.

AJ Spiegel  
AJ Spiegel, Registered Agent  
Royal Oaks Development Corporation

Dated this 14 day of  
March, 2014.

AJ Spiegel  
AJ Spiegel

Dated this 14 day of  
March, 2014.

DNR Field Office 1; Anne Preziosi; VII.C.2